Asia Pacific Tax Weekly

KPMG Asia Pacific Tax Centre | Content to 18 February 2016

Asia Pacific Tax Developments

Tax update for financial institutions (February 2016)

Implementation of the base erosion and profit shifting (BEPS) project initiatives is gathering speed, as governments in the Asia Pacific region introduce amendments to increase disclosure and transparency. This will continue to be a key theme for 2016. Other trends reveal certain governments are looking to improve their efficiency of the tax collection system through greater use of technology.

KPMG has released a report providing updates on tax issues affecting Financial Institutions in the Asia Pacific region.

[More details]

Australia

Australia: Attribution vs Distribution – what it means in AMIT

As we move into the Attribution Managed Investment Trusts (AMIT)-era we need to consider how present entitlement to income from a trust will interact with the so-called 'attribution regime'. If present entitlement no longer drives the allocation of taxable income, what will happen to the income distribution outcomes under trust constitutions.

KPMG in Australia provides insight into whether the AMIT regime requires changes to be made to the distribution clauses. [More details]

Australia: Get your Passports ready!

This year the APEC inspired Asia Region Funds Passport will commence and Australian asset managers will have an opportunity to sell their investment funds directly to Asian investors in their home market.

KPMG in Australia highlights the significance of the Asia Funds Passport for Australia further establishing as a regional financial services hub.

More details

Australia: GST cross border legislation tabled

KPMG in Australia discusses the recently tabled legislation which will change the application of Goods and Services Tax to non-residents.

The measures contained in *Tax and Superannuation Laws Amendment (2016 Measures No. 1) Bill 2016* are arguably one of the most significant changes to the GST Act since inception and will require careful planning and consideration.

More details

Australia: R&D Tax Incentive Review: how can the program be improved?

As part of the National Innovation and Science Agenda, the Government has initiated a Review of the R&D Tax Incentive (Review), to identify opportunities to improve the effectiveness and integrity of the R&D Tax Incentive, including by sharpening its focus on encouraging additional R&D expenditure. The Review is seeking input on its Issues Paper released on 10 February 2016.

KPMG in Australia discusses the R&D Tax Incentive Review and notes the key areas the Review considers.

More details

Australia: Sunny M&A outlook undimmed by tax reform clouds

KPMG in Australia provides insight into how there will be a positive outlook for mergers and acquisitions for 2016, even with various tax concerns in Australia.

More details

India

India: Buyback of shares is not treated as deemed dividend under the Income-tax Act

The Mumbai Bench of the Income-tax Appellate Tribunal held that the buyback of shares under Section 77A of the Companies Act, 1956 is not a colourable device. The amount received under such buyback scheme is treated as capital gain and not deemed dividend under Section 2(22) of the Income-tax Act, 1961. Such capital gain is not taxable under the India-Mauritius tax treaty.

More details

India: CBDT clarifies the term 'initial assessment year' under Section 80-IA of the Income-tax Act

The issue with respect to the interpretation of the term 'initial assessment year' has been a matter of debate.

Recently, the Central Board of Direct Taxes issued a Circular clarifying the term 'initial assessment year' in Section 80-IA (5) of the Act.

KPMG in India summarises the Circular.

More details

India: Allowance of head office expenditure under the pre-amended India-UAE tax treaty

The Mumbai Bench of the Income-tax Appellate Tribunal (the Tribunal) in the case of a taxpayer while dealing with the issue of allowance of head office expenditure under the pre-amended India-UAE tax treaty (the tax treaty) observed that the provisions of the tax treaty are specific and there is no ambiguity on the question of applicability of domestic tax laws. Therefore, expenditure incurred for the purpose of the business including the executive and administrative expenditure are to be restricted as prescribed under the Act.

More details

India: Draft rules on NCLT, schemes of compromises/arrangements and prevention of oppression and mismanagement, for public comments

The Ministry of Corporate Affairs has released the draft rules pertaining to the National Company Law Tribunal (NCLT or Tribunal) provisions under the Companies Act, 2013 seeking suggestions and comments along with justification from stakeholders.

NCLT is being set up under the Act and would replace the Company Law Board.

More details

India: Payment of 2% on sales considered at arm's length

The Kolkata Bench of the Income Tax Appellate Tribunal rejected a transfer pricing adjustment with respect to the taxpayer's payment equal to 2% on sales for intra-group services and made to a Singapore related party.

More details

India: Payment for data transmission services through a transponder under the India-Thailand and India-Netherlands tax treaties

The Delhi High Court held that payment for data transmission services through a transponder is not royalty under the India-Thailand and India-Netherlands tax treaties (tax treaties). A retrospective amendment introduced by the Finance Act, 2012 to the definition of 'royalty' will not affect Article 12 of the tax treaties.

The High Court observed that no amendment to the Income tax Act, 1961 (the Act), whether retrospective or prospective can be read in a manner so as to extend its operation to the terms of an international treaty.

More details

India: Resulting company entitled to pro-rata/proportionate TDS, advance-tax and MAT credit post demerger

The Ahmedabad Bench of Income-tax Appellate Tribunal held that credit of Tax Deducted at Source (TDS), Minimum Alternate Tax (MAT) and advance tax paid by the demerged company (relatable to the demerged undertaking) is allowable in the hands of the resulting company upon demerger. More details

India: Sale of shares of the group concern to related parties

The Delhi Bench of the Income-tax Appellate Tribunal (the Tribunal) held that sale of shares of the group company during the lock-in period to related parties cannot be accepted as genuine and, therefore, the transaction was a sham transaction.

The taxpayer had submitted misleading facts and explanation before the tax authorities. Therefore, the capital loss resulting from such transaction was disallowed.

More details

India: Valuing imports from a related party for customs purposes

The Special Valuation Branch of India's Customs agency investigates transactions involving special relationships between related buyers and sellers or those transactions involving other special circumstances concerning the sale of imported goods—both of which have a bearing on the assessable value.

More details

Indonesia

Indonesia: Reduced final withholding income tax rates on interest income from deposits, savings and BI Certificate discounts if funds come from exports (Devisa Hasil Ekspor)

It has been for 15 years that interest on deposits or savings in Indonesian banks has been subject to a 20% final withholding income tax, regardless of the source of the funds.

Starting 28 December 2015, under new Government Regulation No. 123/2015, final withholding income tax rates have been reduced on interest received or earned from deposits, savings or Bank Indonesia (BI) Certificate discounts, provided that the source of funds is from exports (Devisa Hasil Ekspor in accordance with BI's regulation) and the funds are placed in banks established or domiciled in Indonesia, including overseas banks' branch offices.

More details

Thailand

Thailand: Program offers tax audit protection for SME taxpayers

The government recently issued an emergency decree providing a "tax audit exemption program" that is effective and available to taxpayers beginning in 2016. The program basically provides incentives for taxpayers to regularize their tax affairs on a forward-looking basis, by providing protection from tax audits.

More details

Calendar of Events

Date	Event	Location
23 February 2016	150% Super Deduction: Tax savings for the building/architectural, technology and multi-media design industries More details	Shanghai, China
26 February 2016	KPMG Webinar: R&D 150% Super Deduction and High and New Technology Enterprise - ("HNTE") regulation changes for Automotive Industry (China) More details	Webinar
26 February 2016	KPMG China Tax Update Seminar More details	Singapore
9 March 2016	KPMG keeping abreast with tax regulations in insurance and reinsurance seminar More details	Singapore
16 March 2016	Understanding the fundamental principles of Malaysian GST and latest developments More details Contact person: Ms Pershen Kaur	Petaling Jaya, Malaysia
Week of 9 May 2016	2016 KPMG Asia Pacific Tax Summit More details	Beijing

Beyond Asia Pacific

EU: "First sale for export" repeal for customs valuation purposes

The new EU customs regulation (UCC)—effective 1 May 2016—includes a change to customs valuation rules, and specifically a change to the "first sale for export" concept. Up until 30 April 2016, EU importers can use the "first sale for export" concept if certain conditions are satisfied. However, if an EU importer fulfills a strict set of conditions, it may invoke the "sunset clause" until 31 December 201.

More details

TaxNewsFlash by Region

For the latest tax developments from other regions see the following links:

Africa Americas Europe United States

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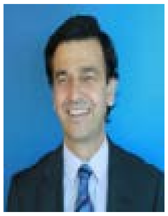

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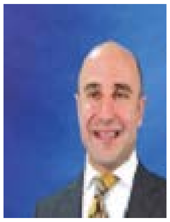
Insurance



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